IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

Bail Appl..No. 4654 of 2007()

CRIME NO.195/07 OF NALLALAM POLICE STATION,KOZHIKODE

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PETITIONER/ACCUSED

CHANDRASEKHARAN,
S/O.LATE SUBRAMANIAN NAIR,
AGED 37 YEARS, THAZHECHIRAVANCHERI HOUSE,
P.O.PANTHEERANKAVU, KOZHIKODE.

BY ADV. SRI.KRISHNADAS P. NAIR
SRI.HARIDAS P.NAIR
SMT.K.L.SREEKALA
SRI.M.A.VINOD
SRI.M.RAJESH KUMAR

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 01/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4654 of 2007

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Dated this the 1st day of August, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations of having committed the offence punishable under Section 498A I.P.C. The marriage took place on 27.4.2003. No children have been born in the wedlock so far. A private complaint has been lodged by his wife before the learned Magistrate and the same was referred to the police under Section 156(3) Cr.P.C. The defacto complainant was admitted in the hospital consequent to an alleged assault by the petitioner.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. There is strain in the marital tie and on account of such strain, fanciful, false and exaggerated allegations are being made against the petitioner. The defacto complainant had not suffered any injury. The allegations are raised with vexatious intent. The petitioner may be saved of the undeserved trauma of arrest and incarceration in prison, submits the learned counsel.

3. The learned Prosecutor points out that the defacto complainant had been admitted in the hospital for four days consequent to the allegation that she was assaulted and dragged through the road. The case diary has been placed for my perusal. The case diary has the wound certificate in it. It does not show that there is any physical injury suffered by the defacto complainant.

4. The learned Prosecutor opposes the application. But notwithstanding the opposition, I am persuaded to agree that the directions under Section 438 Cr.P.C. can be issued in favour of the petitioner. Arrest and incarceration of the petitioner is likely to mar all possibilities of reconciliation of marital relationship. Subject to appropriate conditions, anticipatory bail can be granted to the petitioner.

5. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 8.8.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that he executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 9.8.07, 10.8.07 and 11.8.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of three months and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 8.8.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 8.8.2007 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 8.8.2007.

(R. BASANT)
Judge

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